

REMARKS

By the present amendment, claims 1 and 5-6 have been amended to obviate the examiner's objections thereto and/or to further clarify the concepts of the present invention. More particularly, independent claim 1 has been amended to incorporate the subject matter of dependent claim 3 therein and claims 5 and 6 have been amended accordingly. Dependent claims 3, 4 and 9 have been canceled.

It is submitted that these amendments to the claims are helpful in distinguishing the subject claims over the cited prior art and do not raise new issues which would require further consideration and/or search. In addition, it is submitted that such amendments place the application in better form for appeal by materially reducing or simplifying the issues for appeal. Furthermore, no additional claims are presented without cancelling a corresponding number of finally rejected claims. In view of the above, it is submitted that entry of the above amendments is in order and such is respectfully requested.

In the Office Action, claims 1, 2 and 4 were rejected under 35 USC §103(a) as being unpatentable over the patent to Smith et al in view of the patent to Lee et al. In making this rejection, it was asserted that the Smith et al patent teaches the entire hose as set forth in the noted claims with one exception. In particular, it was acknowledged that the Smith et al patent does not teach a polyester resin having particles of a core-shell structure. However, it then was asserted that the use of such particles in conjunction with a polyester resin which has gasoline resistance is taught by the Lee et al patent and therefore its use

in the hose according to the Smith et al patent would be obvious to one of ordinary skill in the art. Reconsideration of this rejection in view of the above claim amendments and the following comments is respectfully requested.

As was set forth above, independent claim 1 has been amended herein to incorporate the subject matter of dependent claim 3 therein. Thus, it is submitted that the subject rejection is now moot. Accordingly, withdrawal of the rejection under 35 U.S.C. § 103(a) and allowance of claims 1 and 2 as amended over the cited patents are respectfully requested.

Claims 3 and 5-9 were rejected under 35 USC § 103(a) as being unpatentable over the same patent to Smith et al in view of the patent to Lee et al further in view of the patents to Kawazura et al and lio et al. In making this rejection, the Smith et al and Lee et al patents were applied as in the prior rejection and it was asserted that the Kawazura et al teaches the use of plural layers of polyester resins in forming a hose and the lio et al patent teaches the use of an electric discharge treatment and a layer containing an amine-rich resin. Reconsideration of this rejection in view of the above claim amendments and the following comments is respectfully requested.

With regard to this rejection, it is to be noted that the patent to lio et al is assigned to the same assignee as the subject application and that both applications would have been co-pending if applicants herein were awarded benefit of either of their earlier

Japanese priority dates. A recent amendment to 35 USC § 103(c) became effective as to any application filed after November 29, 1999. This amendment provides that prior art effective under the provisions of 35 USC § 102(e), that is, a U.S. patent having a issue date prior to the filing date of the subject application, is no longer effective prior art if the two have the same assignee. Since the lio et al patent and the subject application are assigned to the same assignee and the basis for citation of the patent would be 35 USC § 102(e) if the patent issued after the filing date of the subject application, the above provisions of § 103(c) would apply.

To have the required co-pendency with the cited patent, it is necessary to perfect the claim for priority in the subject application. In particular, the patent to lio et al has a U.S. filing date of February 28, 2002, and an issue date of June 10, 2003, whereas the subject application has a filing date in the U.S. of September 30, 2003. However, the subject application claims priority from two Japanese patent applications having filing dates of September 30, 2002, and May 16, 2003, both prior to the issue date of the cited lio et al patent.

Submitted herewith are verified English translations of the Japanese priority applications. Since these Japanese applications provide adequate support for the subject matter as presently claimed, the claim for priority to both of the Japanese priority patent applications has been perfected, the cited lio et al patent is removed as an effective reference and the rejection is obviated. With this rejection being obviated, dependent

claims 3 and 5-9 and thus amended claim 1, which now includes the subject matter of claim 3, are allowable.

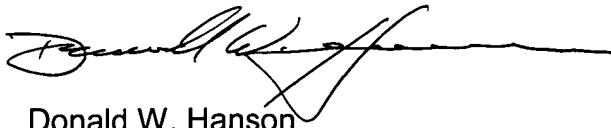
For the reasons stated above, withdrawal of the rejection under 35 U.S.C. § 103(a) and allowance of claims 1 and 5-8 as amended over the cited patents are respectfully requested.

In view of the foregoing, it is submitted that the subject application is now in condition for allowance and early notice to that effect is earnestly solicited.

In the event this paper is not timely filed, the undersigned hereby petitions for an appropriate extension of time. The fee for this extension may be charged to Deposit Account No. 01-2340, along with any other additional fees which may be required with respect to this paper.

Respectfully submitted,

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Enclosure: Translations (2)



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